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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,473	01/13/2004	Christian Patterson	KAPO.0001	9941

7590  
REED SMITH LLP  
Suite 1400  
3110 Fairview Park Drive  
Falls Church, VA 22042

EXAMINER
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GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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08/03/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/755,473	<b>Applicant(s)</b> PATTERSON ET AL.	
	<b>Examiner</b> Mark S. Graham	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/13/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Westphal et al. (Westphal). Westphal's trailer is air conditioned and capable of serving as a storage reservoir for paintballs. Therefore it anticipates the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 8-10, 21, 22, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westphal in view of Fernandez et al. (Fernandez). Fernandez has been cited to the extent it is supported by the 6/2/2003 provisional application.

Westphal discloses a shooting range comprising a plurality of shooting booths and a control area shielded from projectiles at a first end of the housing. At the opposite end of the housing is a target area set with targets. Westphal does not disclose the use of paintball guns and paintballs in such an environment but it is known in the art to provide such with restrained paintball guns as disclosed by Fernandez. It would have been obvious to one of ordinary skill in the art to have used paintballs as the firearms in Westphal's shooting range with their necessary supporting elements.

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Regarding claim 2, Westphal teaches the use of a power generator for such devices.

Concerning claims 8, and 9, the exact velocity of the Westphal/Fernandez paintball guns would obviously have been up to the ordinarily skilled artisan depending on the velocity at which one wished to practice.

With regard to claim 10, Westphal uses bullet proof glass 38 for his control area. However, because ballistic proof materials are not needed with paintballs it would have been obvious to have used less expensive transparent materials for the control area. The examiner takes official notice that plastic sheeting is a less expensive transparent material. It would have been obvious to one of ordinary skill in the art to have substituted such for Westphal's glass to reduce cost and weight.

Regarding claim 21, Westphal's air-conditioning system would inherently have been capable of keeping the range including the dispensing means at the claimed temperature.

With respect to claim 27, the examiner takes official notice that the use of advertising material such as painted or posted messages is commonly known to be used on a wide variety of items visible to the human eye. It would have been obvious to one of ordinary skill in the art to have used such on the Westphal/Fernandez shooting range for advertising purposes.

Concerning claim 22, the examiner takes official notice that transparent tarps or drop-cloths are commonly used to cover areas one wishes to prevent paint from splattering on as when one paints a room. It would have been obvious to one of

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ordinary skill in the art to have done the same in Westphal's shooting gallery to reduce paint-splatter for clean-up purposes.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Bailey. Claims 3 and 4 are obviated for the reasons explained in the claim 1 rejection with the exception of the transformer and the alternative element switch of claim 4. However, as disclosed by Baley it is known in power supply arrangements for trailers such as Westphal's to use portable and external power sources necessitating elements such as transformers and switches. It would have been obvious to one of ordinary skill in the art to have used such elements on Westphal's trailer based shooting range to allow for alternate sources of power to have been used.

Claims 5-7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 3 respectively above, and further in view of Pedicini et al. '975 (Pedicini). Claims 5-7 are obviated for the reasons explained in the claim 1 and 3 rejections above with the exception of the particularly recited paintball gun operating elements. However, as disclosed by Pedicini, (paragraphs 4, 6, 12, and 19) the claimed operating elements are all known for use in the paintball gun art. It would have been obvious to one of ordinary skill in the art to have used such to operate Ferandez's paintball guns depending on how one wished to pressurize and supply them.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Kenney et al. '035 (Kenney).

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Claims 11-14 are obviated for the reasons explained in the claim 1 rejection with the exception of the tether and supporting seat. However, such elements are commonly known for shooting arcade guns as typified by Kenney. It would have been obvious to one of ordinary skill in the art to have used such with Ferandez's guns as well to secure them against theft and to supply them with a power source.

Concerning clam 13, the length of such a tether would obviously have been dependent on the degree of freedom one wished to offer the shooter.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Hampton. Claims 16-19 are obviated for the reasons explained in the claim 1 rejection with the exception of the reservoir and dispensing system. However, such elements are known for shooting arcade guns as disclosed by Hampton. It would have been obvious to one of ordinary skill in the art to have used such with Ferandez's guns as well to supply them with paintballs.

With regard to claims 16 and 17, concave panel 32 may be considered the sloped plate reservoir.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Rushton et al. '945 (Rushton). Claim 20 is obviated for the reasons explained in the claim 1 rejection with the exception of the counter. However, counters are known in the art as disclosed by Rushton. It would have been obvious to one of ordinary skill in the art to have used such with Ferandez's guns as well to count the paintballs being used by each shooter.

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Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Bateson. Claims 23-25 are obviated for the reasons explained in the claim 1 rejection with the exception of the cleaning means. However, it is known to supply a room with an automated cleaning system as disclosed by Bateson. It would have been obvious to one of ordinary skill in the art to have used such with the Westphal/Fernandez room housing the shooting gallery as well to make clean-up easier.

With respect to claim 25, Westphal discloses that a computer is used in the control area for operating the range functions. It would have been obvious to one of ordinary skill in the art to have used such to operate all functions of the Westphal/Fernandez shooting range including clean-up.

The other prior art cited on the PTO '892 form has been provided to show other articles which are similar to that claimed by applicant.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
8/2/10

/Mark S. Graham/  
Primary Examiner, Art Unit 3711